

**NOTE:** Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ FINAL ~

Meeting Summary  
**Motor Vehicle Dealer Board**  
Monday, January 9, 2006

Chairman D.B. Smit called the Dealer Board meeting to order at 11:57 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 16 Board members present. Present were members Carlton Courter, Jonathan Blank, Lynn Hooper, Todd Hyman, Wanda Lewark, Chip Lindsay, Hugh McCreight, Jim Mercer, Thomas Moorehead, Pat Patrick, Frank Pohanka, Kevin Reilly, Vince Sheehy, Jimmy Whitten, Robert Woodall and Thomas Woodson. (Absent: David Lacy and Larry Shelor). Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Jim Gurney and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The November 14, 2005 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**STATUTORY COMMITTEE REPORTS**

**Dealer Practices Committee:**

- **Update: Christopher S. Mallory and Auto Finders.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Christopher S. Mallory and Auto Finders. Based on that discussion, Mr. Patrick made the following motion: The Board has **re**-reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Christopher S. Mallory t/a Auto Finders of Virginia, LLC for violations of Va. Code §46.2-1537, allowing an unlicensed individual to solicit the sale of motor vehicles and compensating an individual, who is not licensed by the dealership, in the connection of the sale of a motor vehicle. Based on due consideration, the Board believes it should not modify its September 2004 decision to levy \$10,500 a civil penalty on Mr. Christopher S. Mallory and Auto Finders of Virginia, LLC. The Board hereby takes no further action on the request for re-consideration by Mr. Christopher S. Mallory and Auto Finders of Virginia.

Frank Pohanka seconded. The motion carried unanimously.

- **Ullman D. Quash and Low Riders.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Ullman D. Quash and Lower Riders. Based on that discussion, Mr. Patrick made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Ullman Quash and Low Riders, Inc. for alleged violations of Va. Code §§46.2-1529; 1532; and 1559 related to record keeping and §46.2-1542(C), failure to deliver application of title to DMV within 30 days. Based on due consideration and the recommendation of the hearing officer, the Board believes no action should be taken against Mr. Ullman Quash and Low Riders, Inc. The Board hereby takes no further action against Mr. Ullman Quash.

Hugh McCreight seconded. All in favor: 15 (Smit, Courter, Blank, Hyman, Lewark, Lindsay, McCreight, Mercer, Moorehead, Patrick, Pohanka, Reilly, Whitten, Woodall, Woodson). Opposed: 1 (Hooper). The motion carried.

- **Stephen Konwerski and Chesterfield Auto Sales.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Stephen Konwerski and Chesterfield Auto Sales. Based on that discussion, Mr. Patrick made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Stephen Konwerski and Chesterfield Auto Sales for alleged violations of Va. Code §46.2-1533, failure to maintain required business hours. Mr. Konwerski received at least two warning/educational letters that outlined the minimum hours requirements and previously paid a \$250 civil penalty for violations of Va. Code §46.2-1533, failure to maintain required business hours. Based on due consideration, the Board believes that a civil penalty should be levied against Mr. Stephen Konwerski and Chesterfield Auto Sales. The Board hereby assesses a civil penalty in the amount of \$500 on Mr. Stephen Konwerski and Chesterfield Auto Sales for violations of Va. Code §46.2-1533.

Vince Sheehy seconded. The motion carried unanimously.

- **Issmail Alchaleh and M&I Auto Sales, Inc.** Chairman Pat Patrick summarized for the Board the discussion held in the Committee meeting regarding Issmail Alchaleh and M&I Auto Sales, Inc. Based on that discussion, Mr. Patrick made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Mr. Issmail Alchaleh and M&I Auto Sales, Inc. for alleged violations of Va. Code §46.2-1533, failure to maintain required business hours. Mr. Alchaleh received at least two warning/educational letters that outlined the minimum hours requirements and previously paid a \$250 civil penalty for violations of Va. Code §46.2-1533, failure to maintain required business hours. Based on due consideration, the Board believes that a civil penalty should be levied against Mr. Issmail Alchaleh and M & I Auto Sales, Inc. and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Alchaleh in running his dealership. The Board hereby assesses a civil penalty in the amount of \$1,000 on Mr. Alchaleh and M&I Auto Sales, Inc. for violations of Va. Code §46.2-1533; and that the Board mandates that Mr. Alchaleh successfully complete the dealer-operator course by July 9, 2006. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Alchaleh by the Board until what time Mr. Alchaleh has successfully completed the course.

Kevin Reilly seconded. The motion carried unanimously.

## **Licensing Committee**

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

- **Tabled Issue: Request for Variance: Southern Specialty Vehicles, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Southern Specialty Vehicles' request for a Variance in hours. Based on that discussion, Mr. Hyman made the following motion: Va. Code Section 46.2-1533 grants authority to the Board to modify the minimum hours requirements as set-out in §46.2-1533, "for good cause" and Mr. Donald Pleasants, owner of Southern Specialty Vehicles has requested that this dealership be exempt from the minimum hours requirements. The Board denies the variance request of Southern Specialty Vehicles.

Lynn Hooper seconded. All in favor: All in favor: 15 (Smit, Courter, Blank, Hooper, Hyman, Lewark, Lindsay, McCreight, Mercer, Moorehead, Patrick, Reilly, Whitten, Woodall, Woodson). Opposed: 1 (Pohanka). The motion carried.

- **Bobby H. Dawson and Freedom Ford, Lincoln, Mercury, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Bobby H. Dawson and Freedom Ford, Lincoln, Mercury, Inc. Based on that discussion, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Bobby H. Dawson and Freedom Ford, Lincoln Mercury for alleged violations of Va. Code §46.2-1537, allowing an unlicensed individual to solicit the sale of motor vehicles and compensating an individual, who is not licensed by the dealership, in the connection of the sale of a motor vehicle. Based on due consideration, the Board believes a civil penalty should be levied against Mr. Bobby H. Dawson and Freedom Ford, Lincoln Mercury. The Board hereby assess a civil penalty in the amount of \$ 1,850 on Mr. Bobby H. Dawson and Freedom Ford, Lincoln Mercury for thirty-seven violations of Va. Code §46.2-1537.

Pat Patrick seconded. The motion carried unanimously.

- **Request for Variance in Hours: M. M. Banks Auto Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding M. M. Banks Auto Sales' request for a variance in hours. Based on that discussion, Mr. Hyman made the following motion: Va. Code Section 46.2-1533 grants authority to the Board to modify the minimum hours requirements as set-out in § 46.2-1533, "for good cause" and the Board has determined that "business being slow in the winter" does not constitute "good cause". Mr. Banks, owner of M.M. Banks Auto Sales has requested that his dealership be exempt from the minimum hours requirements. The Board denies the variance request of M.M. Auto Sales to close until March 15, 2006.

Jimmy Whitten seconded. The motion carried unanimously.

## **Advertising Committee**

Chairman Frank Pohanka summarized discussions that were held during the Committee Meeting, in which one of those discussions was the review of special purchase of repossessed and government purchased vehicles.

## **Transaction Recovery Fund Committee**

Full Board Vice-Chairman Vince Sheehy summarized discussions held and actions that were taken during the Committee Meeting.

- **Alvin M. Anderson and Auto Excellence, Inc. (2) James Peacock and Edward F. Mayo and Premier Auto and (3) Dr. Richard Beaver and Cantab Motors, Ltd.** Full Board Vice-Chairman Vince Sheehy summarized for the Board the discussion held in the Committee meeting regarding (1) Alvin M. Anderson and Auto Excellence, Inc. (2) James Peacock and Edward F. Mayo and Premier Auto and (3) Dr. Richard Beaver and Cantab Motors, Ltd. Based on that discussion and the recommendation in the case, Mr. Sheehy made the following motions: Pursuant to §46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund ("Fund"), the Board has reviewed and considered claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund. The Board hereby approves and reaffirms the following claims and payment amounts subject to compliance by the claimant with statutory requirements:

<b>Alvin M. Anderson and Auto Excellence, Inc.</b>	<b>\$2,262.00</b>
<b>James Peacock and Edward F. Mayo and Premier Auto</b>	<b>\$12,212.36</b>
<b>Dr. Richard Beaver and Cantab Motors, Ltd.</b>	<b>\$20,000.00</b>

Jim Mercer seconded. The motion carried unanimously.

## **OLD BUSINESS FROM THE FLOOR**

**Curbstoning Report.** Don Boswell, Chief of Investigations for DMV, gave a brief update on ISO investigations relating to curbstoning since the November Board meeting.

There was no old business from the floor.

## **NEW BUSINESS**

The next meeting will be scheduled for March 13, 2006

**Executive Director's Report.** Bruce Gould indicated that the new test on the KATS machine has been successfully brought up and is more challenging. Also, the interview process to replace Vic Hernandez has been completed. An announcement to his replacement should be next week sometime. Bruce reminded the members to turn in their Financial Disclosure forms and to also sign the Conflict of Interest forms. Lastly, the General Assembly is gearing up and he distributed a list of bills being presented that would have an impact on the Dealer Board or would be of interest to the dealer community.

## **NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 12:28 p.m.

Meeting Summary  
**Dealer Practices Committee**  
Monday, January 9, 2006

Chairman Pat Patrick called the Dealer Practices Committee meeting to order at 8:32 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Hugh McCreight, Jonathan Blank, Lynn Hooper, Jim Mercer, Thomas Moorehead, Frank Pohanka, Kevin Reilly, Jimmy Whitten and Robert Woodall. (Absent: David Lacy) Other Board members present: D.B. Smit, Tommy Woodson, Todd Hyman, Wanda Lewark, Chip Lindsay, Larry Shelor. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Eric Fiske was present from the Attorney General's Office.

The November 14, 2005 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

**Update: November Actions.** Pat Patrick reported on the actions taken at the Dealer Practices Committee meeting on November 14, 2005.

- **Update: Christopher S. Mallory and Auto Finders of Virginia.** Bruce Gould indicated that at the September Board meeting, the Dealer Practices Committee and Full Board assessed Mr. Mallory a civil penalty of \$10,500 for repeated violations of Virginia Code Section 46.2-1537. Since then, Mr. Mallory has appealed this decision to Circuit Court. Michael Hollomon, counsel for Mr. Mallory, indicated in a letter that he would like to address the Committee about these violations and a reduction in the civil penalty.

Michael Hollomon, Esquire, spoke on behalf of his client, Mr. Mallory. He indicated that they are not disputing the fact that Mr. Mallory was found in violation of the Motor Vehicle Dealer Licensing Laws, he simply would like to see the Committee members reduce the \$10,500 civil penalty back to the original hearing officer's recommendation of assessing a civil penalty of \$5,250. Due to the overwhelming evidence against Mr. Mallory and his unwillingness to cooperate with the Board's requests, the Committee decided not to take any further action on this issue.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conference:**

- **Ullman D. Quash and Low Riders.** On August 11, 2005 an informal fact-finding conference was conducted to address the alleged violations of §46.2-1532 (failure to maintain odometer disclosure statements for a period of five years in a manner that permits systematic retrieval), §46.2-1542(c) (Failure to, no later than the expiration of the first temporary certificate, deliver to the Department an application for title, copy of the buyer's order, all required fees and a written statement of facts describing the dealer's efforts to secure the certification of origin to the vehicle) and §46.2-1559 (failure to keep written record of temporary license plates and have them available for inspection) against Ullman D. Quash and Low Riders. Based on the information provided at the conference, the hearing officer recommended that the Board assess a civil penalty of \$400.00 against Mr. Quash and Low Riders.

Mr. Quash spoke on behalf of himself. He indicated that a friend approached him about opening a business together, so he entered into the business, assuming that his friend would help him learn the process. In the end, the friend did not help.

Motion was made by Hugh McCreight to reject the hearing officer's recommendation and take no action against Mr. Quash and Low Riders. Kevin Reilly seconded. Rationale was that Mr. Quash was misguided by an individual he trusted to show him how to run the used car business.

Substitute motion was made by Lynn Hooper to assess a civil penalty of \$50. No second. Motion failed.

Original motion stands. All in favor: 9 (Blank, Patrick, McCreight, Moorehead, Pohanka, Reilly, Mercer, Whitten and Woodall). Opposed: 1 (Hooper). The motion carried.

- **Stephen Konwerski and Chesterfield Auto Sales.** On November 30, 2005, an informal fact-finding conference was conducted to address the alleged violations of §46.2-1533 (failure to maintain posted business hours) against Stephen Konwerski and Chesterfield Auto Sales. Based on the information provided at the conference, the hearing officer recommended that the Board take no action against Stephen Konwerski and Chesterfield Auto Sales and that a follow up inspection be made to ensure all rules and regulations are being followed.

Motion was made by Lynn Hooper to reject the hearing officer's recommendation and assess a civil penalty of \$500. Robert Woodall seconded. All in favor: 9 (Patrick, McCreight, Moorehead, Pohanka, Reilly, Hooper, Mercer, Whitten and Woodall). Opposed: 1 (Blank). The motion carried unanimously.

- **Issamail Alchaleh and M&I Auto Sales, Inc.** On November 30, 2005, an informal fact-finding conference was conducted to address the alleged violations of §46.2-1533 (failure to maintain posted business hours) against Issamail Alchaleh and M&I Auto Sales, Inc. Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$500 and that a follow-up inspection be made to ensure all rules and regulations are being followed.

Motion was made by Kevin Reilly to reject the hearing officer's recommendation and impose a civil penalty of \$1,000 and that Mr. Alchaleh take the Dealer-Operator course within a 6 month time frame. Lynn Hooper seconded. The motion carried unanimously.

**Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould indicated that he will make this presentation at the Full Board meeting.

Lynn Hooper requested that, in the future, a one page summary of the dealerships history accompany with information provided for each agenda item. Bruce agreed.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The next meeting was scheduled for March 13, 2006.

The meeting adjourned at 9:41 a.m.

Meeting Summary  
**Dealer Licensing Committee**  
Monday, January 9, 2006

Chairman Todd Hyman called the Dealer Licensing Committee meeting to order at 9:50 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Robert Woodall, Wanda Lewark, Chip Lindsay, Kevin Reilly, Vince Sheehy, Jimmy Whitten and Tommy Woodson. (Absent: Larry Shelor) Other Board members present: D. B. Smit, Carlton Courter, Lynn Hooper, Frank Pohanka, Jim Mercer, Pat Patrick, Jonathan Blank, Thomas Moorehead, Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The November 14, 2005 meeting summary was approved.

**PUBLIC COMMENT**

**OLD BUSINESS FROM THE FLOOR**

Dave Boling updated the Committee on the first Dealer-Operator "two-day" course. He indicated that it was a great learning experience and Board member David Lacy was in attendance as well. He also indicated that the next course will be January 25 & 26, 2006 in Richmond and in February it will be in Rocky Mount.

**OLD BUSINESS**

**Update: November Actions.** Peggy Bailey reported on the actions taken at the Licensing Committee meeting on November 14, 2005.

- **Tabled Issue: Request for Variance in Hours: Southern Specialty Vehicles, Inc.**  
Donald Pleasants requested that the Board grant his dealership a variance to reduce his minimum hours of operation, because none of their business is walk in where client's come in to their office or lot to make a purchase of emergency equipment. Their request is to allow them to staff their office from 9:00 a.m. to 12:00 p.m. every Monday for a total of three (3) hours per week.

Motion was made by Robert Woodall to reject the variance request. Kevin Reilly seconded. The motion carried unanimously.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conference:**

- **Bobby H. Dawson and Freedom Ford, Lincoln, Mercury, Inc.** On August 11, 2005, an informal fact-finding conference was conducted to address the alleged violation of §46.2-1537 (prohibits dealers from paying a commission or compensating any person in connection with the sale of a motor vehicle unless that person is licensed as a salesperson and employed by the dealer) against Bobby H. Dawson and Freedom Ford, Lincoln, Mercury, Inc. Based on the information provided at the conference, the hearing officer recommended that the Board take no action against Bobby H. Dawson and Freedom Ford, Lincoln, Mercury, Inc.

Motion was made by Kevin Reilly to accept the hearing officer's recommendation. Jim Mercer seconded. (Mr. Mercer is not a Committee member). The motion was withdrawn by Mr. Reilly.

Motion was made by Vince Sheehy to reject the hearing officer's recommendation and assess a civil penalty of \$50.00 for each of the 37 violations for a total civil penalty of \$1,850.00 against Bobby H. Dawson and Freedom Ford, Lincoln, Mercury, Inc. Robert Woodall seconded. The motion carried unanimously.

- **Request for Variance in Hours: M.M. Banks Auto Sales.** Bruce Gould indicated that M.M. Banks Auto Sales requested a variance in hours to be closed December 12, 2005 through March 15, 2006, due to business being slow during the winter months.

Motion was made by Robert Woodall to reject the variance request. Kevin Reilly seconded. The motion carried unanimously.

The next meeting was scheduled for March 13, 2006.

#### **NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 10:31 a.m.

Meeting Summary  
**Advertising Committee**  
Monday, January 9, 2006

Chairman Frank Pohanka called the Advertising Committee meeting to order at 10:32 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Lynn Hooper, Jonathan Blank, Chip Lindsay, Hugh McCreight, Jim Mercer, Thomas Moorehead and Pat Patrick. (Absent: Larry Shelor) Other Board members present: D.B. Smit, Kevin Reilly, Tommy Woodson, Carlton Courter, Robert Woodall, Todd Hyman, Vince Sheehy, Wanda Lewark and Jimmy Whitten. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Jim Gurney and Don Boswell represented DMV. Eric Fiske represented the Attorney General's Office.

The November 14, 2005 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Update: Review of Special Purchase Type Advertising.** Bruce Gould indicated that at the last Board meeting, the Committee asked that him to collect some advertisements for this Committee to look at that were similar to the repossession sales, special government seized vehicles type sales. He photocopied some advertisements and presented them to the members for review. After reviewing these advertisements, consensus of the Committee was, in order to keep these types of advertisements from being deceptive, you must indicate, in a disclaimer, how many of the advertised vehicles are in stock. The dealer must have a reasonable number of the vehicle types (reposed, government, etc) in stock. MVDB staff should look at these types of advertisements carefully and if necessary request clarification from the dealer.

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

The next meeting will be March 13, 2006.

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The meeting adjourned at 10:54 a.m.

Meeting Summary  
**Transaction Recovery Fund Committee**  
Monday, January 9, 2006

Vice-Chairman of the Full Board Vince Sheehy called the Transaction Recovery Fund Committee meeting to order at 10:55 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Jonathan Blank, Lynn Hooper, Wanda Lewark and Tommy Woodson. (Absent: David Lacy and Larry Shelor). Other Board members present: Kevin Reilly, Carlton Courter, Robert Woodall, Todd Hyman, D.B. Smit, Frank Pohanka, Jim Mercer, Pat Patrick, Chip Lindsay, Thomas Moorehead, Hugh McCreight and Jimmy Whitten. Executive Director Bruce Gould, Peggy Bailey, Katherine Idrissi and Debbie Allison represented the Dealer Board. Don Boswell and Jim Gurney represented DMV. Eric Fiske represented the Attorney General's Office.

The November 14, 2005 summary was approved.

**PUBLIC COMMENT**

There was no public comment.

OLD BUSINESS

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

**Review and Action: Informal Fact-Finding Conference Results:**

- **Alvin M. Anderson and Auto Excellence, Inc.** On September 3, 2004, Mr. Anderson wrote a check for \$2,200.00 to Auto Excellence for the purchase of a 1997 Ford F150. At the time of the purchase, Auto Excellence was the titleholder of the vehicle with a lien release from Ellis Financial, Inc. Mr. Ron Fitzgerald of Auto Excellence indicated that the vehicle was being sold "as is" and all that was needed was the state inspection. Several weeks passed and Mr. Anderson still had not received the vehicle. Mr. Anderson contacted Mr. Fitzgerald, a representative of Auto Excellence, and Mr. Fitzgerald informed Mr. Anderson that the vehicle had been towed from the lot by Ellis Financial and instructed Mr. Anderson to contact Mr. Raymond Robinson. Mr. Anderson contacted Mr. Robinson and he stated to Mr. Anderson that the vehicle belonged to them and that he must pay \$5,500.00 to obtain the vehicle.

Mr. Anderson then contacted the Motor Vehicle Dealer Board and filed a complaint against Auto Excellence and Ellis Financial, Inc. After completing a title search, DMV records reflected that a Virginia title was issued in the name of Auto Excellence on June 10, 2004 with a recorded lien to Ellis Financial in which the lien had been released on August 3, 2004. Further, the records reflect that Ellis Financial obtained a repossessed title on October 8, 2004, which was several weeks after Mr. Anderson had purchased the vehicle from Auto Excellence. In order to assist Mr. Anderson in resolving his complaint, Debbie Allison, Field Supervisor for the Dealer Board, called Mr. Robinson of Ellis Financial. She explained that according to the DMV records, Ellis Financial had released their lien prior to Mr. Anderson purchasing the vehicle from Auto Excellence. She suggested they return the vehicle to Mr.

Anderson and that their issue with Auto Excellence would be a separated matter that could be pursued civilly in court. Mr. Robinson refused and indicated that the truck would remain in his possession.

On November 3, 2004, Mr. Anderson filed a Warrant in Debt against Ron Fitzgerald of Auto Excellence, Ray Robinson of Ellis Financial and Ricky Wright of Auto Excellence. On December 3, 2004, Mr. Anderson refilled for a Warrant in Debt against Ronald Fitzgerald and Intergrity Motors (Mr. Fitzgerald's own dealership), Ellis Financial and Richard Laibstain and Auto Excellence and Stephen Isaacs for fraud in connection with the purchase. On January 7, 2005, the General District Court for Henrico County awarded Mr. Anderson a Default Judgment in the amount of \$2,200.00 plus \$62.00 courts costs against Auto Excellence and dismissed Integrity Motors. On August 8, 2005, Mr. Anderson was unsuccessful in receiving payment or possession of the vehicle and submitted all documentation to the Dealer Board for consideration of payment from the Fund.

After carefully reviewing all the documentation and the final judgment order, it was the staff's recommendation that the Recovery Fund Committee and Board approve \$2,262.00 on Mr. Anderson's claim, which is based on \$2,200.00 paid for the purchase and \$62.00 in court costs. On November 29, 2005, an informal fact-finding conference was conducted and based on the information provided at the conference, the staff representative conducting the conference agreed with staff's recommendation and recommended that the Fund pay Mr. Anderson \$2,262.00.

Mr. Anderson was present and spoke on his own behalf.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Lynn Hooper to accept the hearing officer's recommendation. Jonathan Blank seconded. The motion carried unanimously.

- **James Peacock and Edward F. Mayo & Premier Auto.** On January 19, 2003, James and Vicki Peacock, of Elkhart, Kansas, purchased a 2001 Ford, via the internet, from Premier Auto for a purchase price of \$5,975.00. In addition to the purchasing price there was a processing fee of \$125.00, a transport fee of \$675.00 and a temporary tag fee of \$2.00 which totals \$6,777.00. Mr. Mayo e-mailed Mr. Peacock with instructions for payment. On January 21, 2003, Mr. Peacock wired the total payment of \$6,777.00 for the purchase of the vehicle. The vehicle wasn't delivered to the Peacock's until the end of February 2003. They were advised that the clear title would arrive prior to the expiration of the temporary tags. Once they received the vehicle, they began experiencing difficulties with the vehicle and in the process of repairs, it was discovered that the vehicle had been previously wrecked. Contrary to the representations made to them, the condition of the vehicle was unsafe to drive and they were forced to purchase another vehicle. Numerous attempts to contact Mr. Mayo were unsuccessful. On May 1, 2003, he received a letter stating the title to the vehicle could not be forwarded due to an internal problem with a business associate. Mr. Peacock was required to purchase insurance at a cost of \$1,557.36 even though the vehicle was inoperable due to its condition and lack of title. Mr. Peacock never received title and he had to obtain legal counsel in Virginia in order to be compensated for the misrepresentations made to him in connection with the purchase of the vehicle.

On January 24, 2005, Kellam Parks, Esquire on behalf of Mr. Peacock submitted to the Dealer Board, as prior notification, a Warrant in Debt filed against Premier Auto and Edward Mayo for violations of the Virginia Consumer Protection Act/Fraud. Notice was served Barton Daniel, Esquire the register agent for Premier and Brian Thomason, Esquire the Guardian Ad Litem for Edward Mayo, because Mr. Mayo is incarcerated. On February 7, 2005 and April 20,

2005, Mr. Parks submitted all paperwork relating to the purchase of the vehicle. On May 2, 2005 the General District Court of Virginia Beach awarded Mr. Peacock judgment against Premier Auto and Edward Mayo in the amount of \$18,878.00 for a violation of VCPA, actual fraud, constructive fraud and breach of contract. On October 6, 2005, Mr. Parks submitted to the Dealer Board the Judgment Claim Request form and other pertinent paperwork relating to the purchase of this vehicle. October 24, 2005, MVDB staff member Wanda Neely contacted Mr. Parks and inquired as to the location of the vehicle. He indicated that his client currently retains the vehicle; however, it is inoperable due to its condition.

After carefully reviewing all documentation and in determining what amount is compensable from the Fund, staff recommended that the Recovery Fund Committee and Board approve Mr. Peacock's claim in the amount of \$12,212.36. This is based on \$6,777.00 for the purchase price, \$1,557.36 for insurance, \$128.00 courts costs and \$3,750.00 for attorney fees. On November 29, 2005, an informal fact-finding conference was conducted and based on the information provided at the conference, the staff representative conducting the conference recommended the Fund pay \$12,212.36, this is based on \$6,777.00 for the purchase price, \$1,557.36 for insurance, \$128.00 courts costs and \$3,750.00 for attorney fees.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Lynn Hooper to accept the hearing officer's recommendation. Tommy Woodson seconded. The motion carried unanimously.

- **Dr. Richard Beaver and Cantab Motors, Ltd.** In December of 2003, Dr. Beaver, of Johnson City, Tennessee entered into an agreement with Cantab for the purchase and special order of a 2003 Morgan 2-seater tourer. On December 17, 2003, Cantab (via the internet) corresponded with Dr. Beavers with the wiring instructions for the purchase of the 2003 Morgan. On December 21, 2003, Dr. Beavers wired funds to Cantab Motors in the amount of \$55,000.00 for the purchase of the 2003 Morgan. In February 2004, Cantab was unable to take delivery of four new 2003 Morgan automobiles due to its inability to pay MMC (Morgan Motor Company in Worcestershire, England) prior to shipment. Cantab entered into a financing and conditional sales agreement with Morgan of the Rockies (MOTR). MOTR agreed to arrange for the procurement of the automobiles from Morgan, which would be shipped to Cantab for sale to the third parties, Dr. Beaver being one. The agreement further stated that MOTR would deliver the Certificate of Origin's to Cantab only upon receipt of the full purchase price, fees, commission and expenses.

On March 25, 2004, Cantab sent Dr. Beaver a "sales invoice" and a detailed statement regarding options of the 2003 Morgan vehicle he had ordered. On July 12, 2004, First National Bank corresponded with Winston Sharples, owner of Cantab of the agreed terms and advised him that the automobiles were not to leave his dealership without First National Bank having been paid in full for each vehicle. Mr. Sharples sent a letter to First National acknowledging the requirement that any vehicle would be paid in full prior to its delivery to their customers. On July 16, 2004, MOTR filed a Petition in Detinue for Pre-Trial Seizure against Cantab, ordering that the sheriff seize the automobiles from Cantab; however, the sheriff was only able to seize (2) of the (4) Morgan vehicles. One of which was the vehicle of Dr. Beaver. Prior to the scheduled deposition, on July 30, 2004, Cantab filed a voluntary petition for relief under Chapter 11, in the United States Bankruptcy Court. Because of the stay imposed of the Bankruptcy Code, MOTR was forced to cease further activity in its efforts to discover the missing vehicles. Initially, Dr. Beaver and his attorney were assured by Mr. Sharples and Cantab's attorney that Dr. Beaver would be first in line for relief and made whole in connection with his claim totaling \$59,000.00 for the purchase of 2003 Morgan.

In October of 2004, Dr. Beaver agreed to a Stipulation of Settlement with MOTR and First National where he paid the balance due in the amount of \$48,945.00 and an additional \$20,000.00 in order to obtain the certificate of origin and the 2003 Morgan that he contacted to purchase from Cantab Motors. On August 3, 2005, The United States Bankruptcy Court awarded Dr. Richard Beaver Judgment against Cantab Motors, Ltd. in the amount of \$20,000. On August 9, 2005, Brad Evans, Counsel for Mr. Beaver, contacted the Dealer Board and requested information regarding filing a claim against the Transaction Recovery Fund. On September 30, 2005, Mr. Evans submitted all the required documentation for consideration of payment from the Fund.

After carefully reviewing all documentation and in determining what amount is compensable from the Fund, staff recommended that the Recovery Fund Committee and Board approve Mr. Beaver's claim in the amount of \$20,000.00. On December 13, 2005, an informal fact-finding conference was conducted and based on the information provided at the conference, the staff representative conducting the conference recommended the Fund pay \$20,000.

After further discussion and review of the information provided to the Committee in their notebooks, a motion was made by Lynn Hooper to accept the hearing officer's recommendation. Jonathan Blank seconded. The motion carried unanimously.

#### **NEW BUSINESS FROM THE FLOOR**

There was no old business from the floor.

The next meeting was scheduled for March 13, 2006.

The meeting adjourned at 11:43 a.m.